

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 504 of 1992.

DATE OF DECISION 4-3-1993

Mr KK Johnny Applicant (s)

Mr M Rajagopalan Advocate for the Applicant (s)

Versus

Telecommunication Inspector, Respondent (s)  
Railway Microwave Station, Perumad, Idukki & 3 others

Mrs Sumathi Dandapani Advocate for the Respondent (s) 1-3  
Mr George Joseph, ACGSC - R-4

CORAM :

The Hon'ble Mr.AV HARIDASAN, JUDICIAL MEMBER

THE HON'BLE JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not? *no*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *yes*
4. To be circulated to all Benches of the Tribunal ? *no*

## JUDGEMENT

The applicant who has served in the Indian Airforce as a non-commissioned officer from 10.4.1967 to 30.4.1982 got discharged from service earning a monthly pension Rs.172/- while his last pay was Rs.395/-. He was discharged before attaining the age of 55 years. Thereafter he got re-employed as a Wireless Instrument Mechanic under the first respondent on 29.7.1983 in the pay scale of Rs.260-400. He was granted pay only in the minimum of the scale. Therefore on 20.3.1987 he submitted a representation to the first respondent for refixation of his pay in accordance with the O.M.No.2(1)/83/D(civ-1) dated 8.2.1983 at Annexure-A1. As the representation did not evince any response, the applicant made a further representation on 27.1.1992 for which also he did not get any reply. Therefore the applicant has filed this application for a direction to the respondents 1-3 to fix his pay

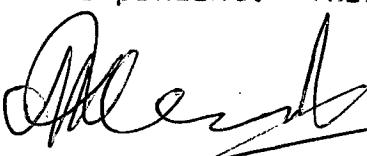
protecting his last pay ignoring the entire Military Pension and for a further direction to the respondents to give the applicant the consequential benefits including arrears of the difference in pay from 29.7.1983.

2. Respondents 1-3 did not file any reply statement though several adjournments were given. The 4th respondent in his reply statement/given the details of the pay drawn by the applicant at the time of his retirement from service and has also indicated that it is the duty of the present employer of the applicant to refix his pay in accordance with rules.

3. When the application came up for hearing, the counsel on either side submitted that the application can be disposed of with the available pleadings especially in view of the decision rendered by the Larger Bench of this Tribunal in OA-3/89. It was held in OA-3/89 that in the case of ex-Servicemen in fixing the pay on re-employment, the pension upto Rs.50/- till 1978, upto Rs.125 till 25.1.1983 and the whole pension in the case of officials below the rank of commissioned officers and Rs.250/- in the case of commissioned officers should be ignored and the pay should be fixed granting the ~~maximum~~ increments for the service rendered in the Defence Force in an equivalent or higher rank upto the I am with the above view. the applicant limit of last pay drawn. Since/in this case got re-employed after 25.1.1983 and while discharged from the Air Force was holding the post of a non-commissioned official entitled entire to have his/pension ignored and to have his pay fixed giving him increments upto the last pay drawn by him. The last pay drawn by him as indicated in the reply statement of respondent-4 was Rs.380+50 per month. But for particulars of the post held by the applicant are wanting in the reply statement. Therefore, I am of the view that the application can now be disposed of directing the respondents to forward to the 1st respondent, the details regarding the post held by the applicant while in service

under him with the pay attached to the posts during the relevant period within a period of one month and with the direction to the respondents 1 to 3 to refix the pay of the applicant on that basis giving him increment for the number of years he has rendered service in a post equal to or higher than the present post subject to the limit of Rs.395/- within a further period of 2 months.

4. In the result, the application is allowed. Respondent 4 is directed to forward to the first respondent the details regarding the posts held by the applicant and the pay attached to the posts for the relevant period within a period of one month from the date of receipt of a copy of this order. The respondents 1 to 3 are directed to refix the pay of the applicant with retrospective effect from the date of his re-employment in accordance with Annexure A1 order ignoring his entire military pension giving him increments for the service rendered by him in the Indian Air Force in a post equivalent or higher to the post held by him in the Railway to the limit of Rs.395/- the last pay drawn by him in the defence service. I also direct the respondents 1 to 3 to disburse to the applicant the arrears of the difference in pay thus fixed and what has already been paid to him so far, within a period of two months from the date of receipt of the particulars from the 4th respondent. There is no order as to costs.



( AV HARIDASAN )  
JUDICIAL MEMBER  
4.3.1993.

trs